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ABSTRACT

This document contains recommendations from the Sunset Commission for the Interagency Council on Early Childhood Intervention (ECI) in Austin, Texas. Recommendations include: (1) modify ECI's current method of purchasing early intervention services to ensure the state receives the best value for its dollars; (2) tap additional funding sources to allow ECI services for more children; (3) ensure the council is meeting statutory objectives through a reassessment of its service delivery system; (4) strengthen accountability for public funds through improved performance monitoring; and (5) decide on continuation of the Interagency Council of Early Childhood Intervention as a separate agency after completion of Sunset reviews of all health and human services agencies. For each recommendation, the change in statute needed, management action needed, fiscal impact, and suggested modifications are provided. A tally of people on the Commission for and against the recommendation is given, along with the final action of the Commission. The document closes with a list of new issues and across-the-board recommendations. (CR)

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ED 445 420

SUNSET COMMISSION DECISIONS

INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION

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Interagency Council on Early Childhood Intervention

General Information		**Agency Duties**
Statutory Reference	Chapter 73 Human Resources Code	• Plans and implements early childhood intervention services for children who have, or are at risk of having, a developmental delay and are below the age of three.
Board Composition	9 voting members 6 non-voting members	
Agency Head	Mary Elder	
Appropriation FY 1997	$63 million	
Employees FY 1997	66 FTEs	

Board Members

Claudette Bryant, Chair, Dallas
Dr. Lesa Walker (TDH), Austin
Carol Gage (DHS), Austin
Thomas Chapmond (PRS), Austin
Liz Shelby (MHMR), Austin
Gene Lenz (TEA), Austin
Catherine Gorham (TCADA), Austin
Tammy Tiner, College Station

1. Modify ECI's Current Method of Purchasing Early Intervention Services to Ensure the State Receives the Best Value for its Dollars.

ECI's method of procuring services through grants does not create the best incentives to hold contractors accountable for the effective delivery of services and does not provide basic and essential controls over contractor expenditures. Most state agencies that provide services to children with disabilities successfully use other methods of procuring and paying for services, such as competition, that create incentives for contractors to provide services to more clients at lower costs to the State. The fact that ECI does not maintain a central record of the units of services actually delivered to its clients limits analysis of the cost of services and the efficiency of the service delivery system.

Change in Statute

- **Require ECI to select providers and renew their contracts on a best value basis. In determining best value, ECI must consider, at a minimum:**
  - **past performance,**
  - **quality of services,**
  - **cost,**
  - **ability of the bidder to maximize local and federal income,**
  - **ability to comply with state and federal program requirements, and**
  - **the availability of the contractor to deliver required services.**

ECI funds its network of service providers through grants based on the historical costs of the contractor to provide services. ECI does not aggressively negotiate lower costs or higher service quality through its grant making process. Significant variations in costs among contractors show that ECI may fund relatively inefficient contractors and pay more than reasonable amounts for some services.

ECI should immediately strengthen its procurement process to focus on purchasing quality services at a reasonable price. ECI's purchasing process should require providers to make specific, measurable commitments regarding quality of services as well as the efforts that the contractor will make to maximize funding sources. Limiting contractor expenditures for salaries, subcontractors and administrative activities to reasonable and necessary amounts would allow ECI to extend services to additional clients. Contracts should be based on performance and failure to perform should be considered each time that services are procured and contracts renewed.

- **Require that ECI's purchases of early intervention services promote competition whenever possible.**

ECI services are available from a variety of organizations and licensed professionals. Fifty-nine percent of ECI funds are spent for employee salaries. However, most ECI contractors provide some professional services through subcontractors, and avoid the overhead cost of maintaining an employee on payroll. In urban areas, the potential exists to expand the use of subcontractors to perform case coordination and family service planning functions and to provide more therapeutic services. Subcontractors paid on a cost per unit basis could result in significantly lower costs to the State. ECI's purchase of services should encourage and support competitive proposals for flexible and innovative service delivery networks that help to ensure that ECI funding is spent efficiently to reach the greatest number of children.

Management Action

- **ECI should ensure providers are only reimbursed for the costs of providing services that are accurately and appropriately authorized through an Individual Family Service Plan (IFSP).**

- **ECI should not pay contractors for services that do not meet program requirements, including preparation of an incomplete IFSP.**

- **ECI should ensure providers pay Medicaid rates for subcontracted services, where appropriate.**

The most important service that ECI purchases from a contractor is the preparation of an IFSP. An inaccurate or incomplete IFSP may lead to unjustified, excessive costs and may jeopardize the well being of young children who need ECI

services. ECI should ensure that it does not pay for services that do not meet basic federal and state requirements.

ECI audits show that IFSPs continue to be incomplete despite corrective actions taken by many ECI contractors. When an ECI audit finds that services do not meet basic requirements, ECI should recoup the amount paid for the service. Recoupment requires that ECI places a dollar value on each service that an ECI contractor delivers. Consequently, implementing this recommendation will require ECI to establish a standard dollar value for each ECI service, including preparation of an IFSP. Even though ECI may choose to not procure services using a cost per unit method, a fee schedule would improve a contractor's ability to bill third party payers for ECI services. Fees should take into account the Medicaid rate typically paid for each service.

Fiscal Impact

Strengthening the controls over the ECI purchasing and payment system should result in significant savings to the State. Purchasing services on the basis of a competitive or median-based fee schedule, as other state programs do, and limiting reimbursements to Medicaid rates would immediately reduce the amounts paid to inefficient providers. If every ECI contractor was held to the median statewide cost per FTE child of $6,500, then $4.2 million would be available to provide services to an additional 650 children. Of course, contractors able to provide costs lower than the median would not receive higher payments. Additional savings would result from ensuring that contractors are paid only for services actually delivered rather than on a grant basis.

For

- Mary Elder, Executive Director
  Early Childhood Intervention
- Kay Lambert
  Advocacy, Incorporated
- Denise Brady
  The ARC of Texas
- Larry McClaugherty
  Friendswood
- Don Rettberg
  Austin
- Madeline Sutherland
  Austin

Against

- Anna M. Martinec
  Houston

Suggested Modifications

1. Eliminate recommendation and modify recommendations in Issue 2 to require a study of the programmatic and fiscal impacts of modifying ECI's funding and procurement system. (Mary Elder, Executive Director, Interagency Council on Early Childhood Intervention)
2. Required a study of the advantages and disadvantages of both fee-for-service and grant funding schemes before moving to a new funding mechanism. (Denise Brady, The ARC of Texas)
3. Ensure provider competition does not emphasize cost over quality. (Kay Lambert, Advocacy Incorporated)
4. Ensure provider competition does not result in a reduction in the range of services provided. (Joy Elliot, Fort Worth)
5. Ensure ECI has a continuum of sanctions for providers not meeting program requirements based on the seriousness of the violation. (Kay Lambert, Advocacy Incorporated)

Recommended Action: Adopt the staff recommendation.

Commission Decision: Adopted recommended action.

2. Tap Additional Funding Sources to Allow ECI Services for More Children.

ECI has established a service delivery system that complies with federal requirements necessary to receive IDEA early intervention funding, but has not been fully successful using other available federal, local, and private payers to expand its funding base and extend services to more children. Additionally, as the level of IDEA funding has remained constant and the cost of services has increased, ECI needs to maximize funding to identify and extend services to all eligible children. ECI has done a commendable job of crafting an early intervention system that meets federal requirements. Now, ECI should turn its focus to developing an efficient, blended funding system that increases resources available for services.

- **Require ECI and the Health and Human Services Commission (HHSC) to review the ECI funding system to maximize federal, private, and local funding.**

By re-engineering the current service delivery system to allow for maximization of funding sources other than IDEA and increasing Medicaid reimbursements, ECI can access more funding to provide more services to children. Increased funding could also be used to increase services to at-risk children and improve Child Find efforts.

The recommended re-engineering process should identify and address existing barriers within the ECI system to maximizing federal, local and private income including organization structure, procurement policies, contract and payment methods, and the absence of fee schedules. As ECI identifies barriers, the agency must look for opportunities to appropriately circumvent potential barriers and not assume all barriers block access to increased funds and better services. ECI contractors should be subject to performance-based incentives and sanctions that help to ensure that contractors identify and bill all of the payers that may appropriately fund ECI services.

The Health and Human Services Commission should be charged with assisting ECI in the development and implementation of the re-engineering initiative that maximizes federal financial participation for services. As part of this effort HHSC should identify barriers external to ECI that the Commission or the Legislature can address to increase funding and service opportunities for the ECI population. HHSC should also be charged with coordinating funding strategies between ECI and other state agencies to ensure that state appropriations are used to achieve the most favorable match of federal dollars.

Re-engineering initiatives to maximize the use of funding sources often take place over a multi-year period and may require the State to renegotiate Medicaid agreements, develop detailed fee schedules, provide intense training to service providers, re-bid contracts for services and change invoicing and record-keeping procedures.

- **Require that families participate in paying for the cost of ECI services, consistent with federal law, through:**
  - **u[illegible] of private insurance coverage,**
  - **sliding scale fees, and**
  - **co-payments.**

Implementation and consistent enforcement of the requirement that families, who can afford to, pay for certain ECI services is consistent with federal Medicaid law and in line with state and federal views of personal responsibility. This recommendation would extend ECI resources to a larger number of families who otherwise would not be served. Requiring families to participate in paying for certain services would require ECI to develop a standardized way of assessing family resources such as income and available insurance. Fees should be based on ability to pay or as a part of a co-pay arrangement to meet federal requirements that services not be denied based on family participation. ECI should also ensure that fees are not charged for those services that federal or state law mandates must be provided without charge. ECI could link fees and access to third party resources as a way to give families the option of using their health coverage or paying a fee for services.

Fiscal Impact

This recommendation would establish State funding as the payer of last resort for federal maintenance of effort requirements for ECI services. In Texas, Medicaid EPSDT income for ECI services currently totals $1.2 million. If one-quarter of the $60 million funded to providers pays for therapy services and if ECI required Medicaid to fund those services for the 61 percent of clients who are Medicaid eligible, the State would realize an additional $8 million in EPSDT reimbursements to fund ECI services. Any increase in Medicaid reimbursements would require the associated state match.

Some ECI families possess the resources to pay for certain services identified in their family plan. Although fees are not presently collected, collections peaked in 1989 at $550,000. Additionally, ECI program income from private insurance peaked at $690,000 in 1991. The fiscal impact estimate assumes collections would return to at least these levels due to increasing caseloads, even though some services are currently exempted from fees.

The State would also realize a positive fiscal impact from targeting intervention services at ECI-eligible children in the PRS system. ECI general revenue funding could be applied to capture additional PRS Title IV funds and ECI could use Title IV funds to extend its programs to children in state-paid foster care. Without an estimate of how many children in the PRS system would be eligible for ECI services, the amount of the additional revenue cannot be estimated at this time.

ECI and its contractors would retain any additional revenue to fund services for additional children. Additional revenue realized by individual local programs could be used for program expansion in areas of the state where total need is not being met. In other cases, ECI should offset the additional revenue from the total state funding and use the savings to fund areas of the state with unmet need. The fiscal impact estimate assumes a reduced level of savings in the first two years to allow for implementation and to give providers time to become familiar with the new requirements.

For

- Mary Elder, Executive Director
  Early Childhood Intervention
- Kay Lambert
  Advocacy, Incorporated
- Denise Brady
  The ARC of Texas
- Larry McClaugherty
  Friendswood
- Don Rettberg
  Austin
- Madeline Sutherland
  Austin

Against

- Anna M. Martinec
  Houston

Suggested Modifications

1. Eliminate the requirement that families participate in paying for ECI services. (Mary Elder, Executive Director, Interagency Council on Early Childhood Intervention; Kay Lambert, Advocacy Incorporated; Camille T. Lauderdale, Austin; Jonas Schwartz, United Cerebral Palsy of Texas; Roger Jones and Rene LeBlanc, San Marcos; Kelly Waterman, Dallas; Don Rettberg, Austin; Michelle Welcher)

2. Install protections to ensure families are not unduly pressured into agreeing to use their private insurance if it were to have a negative impact on annual or lifetime benefit caps. (Denise Brady, The ARC of Texas)

3. Ensure the income generated from fees is sufficient to offset administrative costs and fees will not prevent the participation of any eligible family. (Denise Brady, The ARC of Texas)

Recommended Action: Adopt the staff recommendation.

Commission Decision: Adopted first part of recommendation with a modification that the agency and HHSC report the results of the review of the funding system to the 77th Legislature. Deleted the second part of the recommendation relating to families participating in paying for the cost of services.

3. Ensure the Council is Meeting Statutory Objectives Through a Reassessment of its Service Delivery System.

While ECI has done an effective job of making early intervention services available statewide, the agency needs to increase its visibility and expand its role as the leader on issues impacting children with developmental delays. ECI has not effectively ensured that local providers consistently meet statutory objectives such as the need for local providers to focus outreach efforts on areas of their community with higher populations of at-risk children. As a result, children across Texas with developmental delays continue to reach school age without receiving services. In addition, citing funding limitations, the agency has chosen not to address the need for respite care to assist parents with 24-hour a day responsibility for a child with developmental delays. ECI must look beyond its current practices to address all of the agency's statutory duties and provider greater assistance to local providers to better meet the needs of children and their families.

Change in Statute

- **Require the Council to reassess its service delivery system to improve local providers' ability to meet current statutory objectives, including but not limited to:**
  - **increasing coordination with other agencies serving children with developmental delays, including coordination on policy issues impacting children with developmental delays over the age of three;**
  - **improving Child Find among at-risk populations, including targeting efforts toward at-risk populations and regions of the state and monitoring providers on the success of targeted Child Find efforts; and**
  - **assuming an active lead role in addressing issues such as the provision of respite care for children with developmental delays, including the development of incentives for providers to fund respite.**
- **Require ECI to report to the 77th Legislature on the achievements of its reassessment effort.**

While ECI's statute already directs the agency to meet the objectives discussed in this issue, the activities required in this recommendation make achievement of these objectives a priority within the agency. ECI would be instructed to reassess its operating and service delivery policies to ensure that the State's approach to ECI services better and more fully matches the needs of Texas children. This reassessment may lead to additional changes in the service delivery system to enable providers to meet these higher standards. A reassessment of how the agency attempts to meet state objectives will enable ECI to use all available tools to successfully fulfill its statutory mandate.

The intent of this recommendation is for the agency to actively assess its policies and make changes to meet statutory objectives, not to just report back to the Legislature with a plan for re-engineering. ECI should begin the initiative after completing a planning process that includes:

- the active involvement of its Board and advisory committee;
- input from families and other interested members of the public; and
- a time line for implementation of changes resulting from reassessment of service delivery policies.

The agency would be required by this recommendation to report to the Legislature by December 1, 2000, on the initial planning effort, the actions taken to reassess the agency's operating policies, the impact of those changes, and any future legislation needed to allow ECI to enhance services.

Fiscal Impact

The requirements in this recommendation can be met with existing resources. The agency is currently funded to do planning, coordination, and evaluation. The changes may also result in increased services to more children although precise numbers are unable to be estimated for this report.

For

- Mary Elder, Executive Director
  Interagency Council on Early Childhood Intervention
- Kay Lambert
  Advocacy, Incorporated
- Denise Brady
  The ARC of Texas
- Larry McClaugherty
  Friendswood
- Liz Newhouse
  Texas Respite Resource Network
- Jonas Schwartz
  United Cerebral Palsy of Texas
- Don Rettberg
  Austin
- Madeline Sutherland
  Austin

Against

- None received

Suggested Modifications

1. Require respite to become a core ECI service. (Liz Newhouse, Texas Respite Resource Network; Carol Wheeler-Liston, Denton)
2. Include the involvement of the State Auditor's Office in the reassessment of the service delivery system. (Don Rettberg, Austin)
3. Shorten implementation timeframe of the recommendation. (Don Rettberg, Austin)

Recommended Action: Adopt the staff recommendation.

Commission Decision: Adopted recommended action.

4. Strengthen Accountability for Public Funds Through Improved Performance Monitoring.

ECI has not fully developed outcome measures that can be used to hold its contractors accountable for delivering services that result in a documented benefit to a child. Consequently, the agency's oversight of service providers is limited to compliance with procedures and does not focus on promoting quality in service delivery. Without information that shows if services meet client needs, ECI cannot effectively monitor the performance of its service providers, does not have all of the elements necessary to use a 'best value' method of procuring services, and cannot effectively hold contractors accountable through performance-based contracts. Given that ECI delivers all of its direct services through contractors, the agency must have a strong system in place to hold contractors accountable for the quality of services that effectively meet the needs of ECI clients.

Management Action

- **ECI should add outcome-based performance measures to its contract monitoring system and sanction providers who do not meet the performance objectives.**

The agency should resume the task of developing relevant service outcome definitions and expectations for all programs and activities under its jurisdiction. At a minimum, ECI should use its contracting and performance monitoring process to establish quality standards for its services, ensure that providers actually deliver the service units identified in the family service plan, and evaluate whether the services achieved the desired goal or impact for the child and family. The agency should solicit input from all stakeholders in developing these service outcomes, and incorporate the outcomes in its provider contracting, monitoring and evaluation processes. This type of monitoring and evaluation approach should result in positive recognition for the many ECI providers who deliver excellent services.

Fiscal Impact

This recommendation to strengthen accountability over public funds through effective program and provider performance measurement, monitoring, and reporting would result in a positive fiscal impact for the State. However, the exact fiscal benefit cannot be determined for this report.

For

- Mary Elder, Executive Director
  Interagency Council on Early Childhood Intervention
- Kay Lambert
  Advocacy, Incorporated
- Denise Brady
  The ARC of Texas
- Larry McClaugherty
  Friendswood
- Don Rettberg
  Austin
- Madeline Sutherland
  Austin

Against

- None received

Suggested Modifications

1. Include the assistance and guidance of the State Auditor's Office in the development of performance measures. (Don Rettberg, Austin)
2. Expand the recommendation to inclued development of data collecting and monitoring to evaluate the impact of services. (Carol Wheeler-Liston, Denton)

Recommended Action: Adopt the staff recommendation.

Commission Decision: Adopted recommended action.

5. Decide on Continuation of the Interagency Council on Early Childhood Intervention as a Separate Agency After Completion of Sunset Reviews of All Health and Human Service Agencies.

Most of the State's health and human service agencies are currently under Sunset review. While these agencies serve many unique purposes they also have many similarities that should be studied as areas for possible improvement through organizational change. This analysis should occur before decisions are made to continue the HHS agencies as separate entities, including the Interagency Council on Early Childhood Intervention.

Change in Statute

- **Decide on continuation of the Interagency Council on Early Childhood Intervention as a separate agency upon completion of Sunset reviews of all health and human service agencies.**

Sunset review of several other HHS agencies are ongoing. Sunset staff recommends that the Sunset Commission delay its decision on continuation of ECI as a separate agency until those reviews are completed. The results of each agency review should be used to determine whether changes are needed in the overall organization of health and human services.

The staff will issue a report to the Commission in the Fall of this year (1998) that will include recommendations for each HHS agency — to continue, abolish and transfer functions, or consolidate specific programs between agencies. This report will also include, for possible action, three agencies under the HHS umbrella not scheduled for specific review this cycle, the Department of Protective and Regulatory Services, the Texas Commission on Alcohol and Drug Abuse, and the Texas Juvenile Probation Commission. These agencies were reviewed by the Sunset Commission in 1996 and continued by the Legislature last year. Possible reorganization of health and human services may affect the continuation of these agencies as independent entities.

For

- Mary Elder, Executive Director
  Interagency Council on Early Childhood Intervention
- Kay Lambert
  Advocacy, Incorporated
- Don Rettberg
  Austin

Against

- None received

Suggested Modifications

1. Continue the agency. (Larry McClaugherty, Friendswood)
2. Consider other organzational alternatives that more closely align the agency with other groups that are providing services to the same population. (Madeline Sutherland, Austin)

Recommended Action: Adopt the staff recommendation.

Commission Decision: Adopted recommended action.

New Issues

New Issues

N1. Require ECI to reevaluate the impact on the service delivery system of its policy requiring children to be served in natural environments unless those settings can be documented as being inappropriate or unsatisfactory based on individual situations. (Don and Jo Ann Rettberg, Austin; Camille T. Lauderdale, Austin; Kathy and John Mecey, Pflugerville, Zuria F. Austin, Austin, Susan D. Eakle, Austin; Judy and Jerry Horton, Elgin; Madeline Sutherland, Austin)

Suggested Staff Modification:
As a management action, require the newly-appointed ECI Board to re-evaluate the agency's policies regarding natural environment, and readopt the resulting policies through administrative rulemaking.

N2. Require ECI to discontinue the policy of reducing or excluding services to children whose parents seek to supplement the services prescribed by ECI. (Camille T. Lauderdale, Austin; Gerardo Jiminez, Austin)

N3. Require the addition of a Family Liaison Coordinator to the staff of local ECI providers. (Marcia J. Dwyer, Plano)

N4. Require ECI providers to be trained to identify mental health needs of children. (Brenda Frizzell, Georgetown)

N5. Direct Sunset staff to examine and report on the specifics of current service delivery options as they compare to options prior to ECI's "natural environment" mandates. (Don Rettberg, Austin)

N6. Obtain detailed information about how the service delivery system affects efficiency and cost effectiveness. (Don Rettberg, Austin)

N7. Obtain more comprehensive information about how other states interpret and comply with federal requirements. (Don Rettberg, Austin)

N8. Improve coordination between ECI and PRS when working with clients vulnerable to abuse and neglect. (J.T. Frazier, Big Sandy)

N9. Require ECI to assist providers in collecting funds from insurance companies. (Marlene Hollier, Houston)

N10. Consider using ECI's multiagency service approach for all services for pregnant women, infants, and children through five years of age. (Carol Wheeler-Liston, Denton)

N11. Mandate the all MHMR authorities spend a percentage of thier budget on early childhood intervention programs with trained professionals in the field. (Carol Wheeler-Liston, Denton)

N12. Provide ECI with funds to purchase nationally based techincal assistance in developing a cost-effective data collection and analysis system to address cost, value, and outcome issues. Encourage ECI to work with programs in other states to develop a national service outcome and cost evaluation system. (Carol Wheeler-Liston, Denton)

N13. Require all ECI programs to regularly attend and participate in community resource coordination group meetings. (Carol Wheeler-Liston, Denton)

N14. Contract with an outside agency/institution to more appropriately and accurately evaluate the Milestones project models. (Carol Wheeler-Liston, Denton)

Recommended Action: Staff recommends adoption of the suggested modification to New Issue 1.

Commission Decision: Adopted Issue N1 with suggested staff modification and Issue N8.

Across-the-Board Recommendations

Interagency Council on Early Childhood Intervention	
Recommendations	**Across-the-Board Provisions**
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Already in Statute	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Already in Statute	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Require information to be maintained on complaints.
Already in Statute	11. Require development of an equal employment opportunity policy.

Recommended Action: Adopt the staff recommendation.

Commission Decision: Adopted recommended action.